

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

BRANDON CALLIER,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 3:23-CV-00375-KC
)	
UNIFIED HEALTH, LLC,)	
)	
Defendant.)	

DEFENDANT UNIFIED HEALTH LLC'S REQUEST FOR JUDICIAL NOTICE

Pursuant to Rule 201 of the Federal Rules of Evidence, Defendant Unified Health LLC hereby respectfully requests that the Court take judicial notice of the following documents and websites in connection with Unified Health's concurrently filed Motion to Dismiss the First Amended Complaint:

1. Complaint from the action captioned *Callier v. Family Advantage Plus Grp., LLC, et al.*, No. 23-00470 (E.D.N.C.), available at Doc. 1 (filed Aug. 29, 2023), attached hereto as Exhibit A.
2. Complaint from the action captioned *Callier v. POWUR PBC*, No. 23-00302 (W.D. Tex.), available at Doc. 3 (filed Aug. 17, 2023), attached hereto as Exhibit B.
3. Complaint from the action captioned *Callier v. MCA Resolve LLC et al.*, No. 23-00318 (W.D.Tex.), available at Doc. 2 (filed Aug. 30, 2023), attached hereto as Exhibit C.
4. The public government website titled *Who's eligible for Medicare*, U.S. Dep't Health & Human Servs., <https://www.hhs.gov/answers/medicare-and-medicaid/who-is-eligible-for-medicare/index.html>, attached hereto as Exhibit D (retrieved December 4, 2023).

5. The “Our Team” section of the website located at www.aerotaxservices.com, attached hereto as Exhibit E (retrieved December 4, 2023).

6. Complaint from this action, captioned *Callier v. Unified Health LLC*, No. 23-00375 (W.D. Tex.), available at Doc. 4 (filed Aug. 17, 2023), attached hereto as Exhibit F.

ARGUMENT

The Court may take judicial notice of any fact or document “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b). Judicial notice of “items in the record of the case, related cases, and matters of public record” is appropriate “in reviewing a motion to dismiss and/or motion for judgment on the

The Court may take judicial notice of Exhibits A-C because they are public filings from cases involving Plaintiff that are related to the above-captioned matter. Similarly, Exhibit F is a prior filed Complaint from this litigation. The substance of these Complaints provides context for this litigation, helps to establish a timeline for Plaintiff’s allegations regarding residence and location where calls were received, and bears upon the issues of subject matter jurisdiction and the veracity of Plaintiff’s allegations. The Court may take judicial notice of these documents because they are a matter of public court record in a related case. *Joseph v. Bach & Wasserman, L.L.C.*, No. 12-30206, 2012 WL 3655358, at *4 n.2 (5th Cir. Aug. 27, 2012) (in deciding a Rule 12(b)(6) motion, “[T]he court may take judicial notice of matters of public record. . . . Here, the document referenced is a pleading filed with a Louisiana state district court, and it is a matter of public record.”); *JP Morgan v. Tarrant Cty. Fort Worth*, No. 14-537, 2014 WL 3670095, at *1 (N.D. Tex. July 22, 2014) (taking judicial notice of the entire record of a related action filed before another judge).

Similarly, the Court may take judicial notice of public websites where “relevant to the issues [presented in the suit] and consistent with the undisputed evidence in the record.” *Stringer v. Pablos*, 320 F. Supp. 3d 862, 868 (W.D. Tex. 2018), *rev'd and remanded sub nom. Stringer v. Whitley*, 942 F.3d 715 (5th Cir. 2019). Websites can be cited for judicial notice where the information presented “can accurately and readily be determined from sources whose accuracy cannot reasonably be questioned.” *See* Fed. R. Evid. 201(b); *Yosowitz v. Coviden LP*, 182 F. Supp. 3d 683, 687-88 (S.D. Tex. 2016) (taking judicial notice of FDA website). Exhibit D is a public government website that is relevant to the litigation because it shows who is eligible for Medicare and thus, eligible for Unified Health’s services and a callback from Unified Health. Further, the Court may take judicial notice of Exhibit E because it is a publicly available website that include information relevant to the issues presented by Defendant related to Plaintiff’s lack of injury and fraudulent allegations.

CONCLUSION

For the foregoing reasons, Unified Health respectfully requests that this Court take judicial notice of the above-referenced documents.

Dated: Dallas, Texas
December 27, 2023

COZEN O’CONNOR, P.C.

/s/ Rachel B. Soloman

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